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PTQ2671

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ACTION WHA-01

INFO	LOG-00	NP-00	AID-00	AMAD-01	ACQ-00	CIAE-00	INL-01
	DINT-00	DODE-00	SRPP-00	DS-00	EB-00	OIGO-02	FBIE-00
	H-01	TEDE-00	INR-00	IO-00	L-00	AC-01	DCP-01
	NSAE-00	NSCE-00	OIC-02	OMB-01	OPIC-01	PA-00	PM-00
	PRS-00	ACE-00	P-00	SP-00	STR-00	TRSE-00	USIE-00
	PMB-00	DSCC-00	PRM-01	DRL-02	G-00	MR-00	NFAT-00
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P 271922Z JAN 00  
FM AMEMBASSY LIMA  
TO SECSTATE WASHDC PRIORITY 2548  
INFO AMEMBASSY SANTIAGO  
AMEMBASSY QUITO  
AMEMBASSY SAN JOSE  
AMEMBASSY LA PAZ  
USCINCSO MIAMI FL

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[REDACTED] SECTION 01 OF 02 LIMA 000520

E.O. 12958: DECL: 01/25/10  
TAGS: PGOV, PHUM, PREL, KFIN, PINR, PE  
SUBJECT: AS NEW ATTORNEY GENERAL ASSUMES DUTIES, OUGOING  
ATTORNEY GENERAL DISMISSES CASE AGAINST MONTESINOS

1. (U) CLASSIFIED BY AMBASSADOR JOHN R. HAMILTON, U.S.

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EMBASSY LIMA, FOR REASON 1.5(C).

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SUMMARY  
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2. (C) ON JANUARY 25, BLANCA NELIDA COLAN WAS SWORN IN TO HER THIRD TERM AS PERU'S ATTORNEY GENERAL SINCE 1992, REPLACING MIGUEL ALJOVIN SWAYNE. COLAN'S ELECTION BY A MAJORITY OF PROVISIONAL (I.E., NON-TENURED) MAGISTRATES HAD BEEN ANTICIPATED. AS A LOYAL FUJIMORI SUPPORTER, SHE WAS EXPECTED TO SHELVE THE INVESTIGATION OF NATIONAL SECURITY PRESIDENTIAL ADVISOR VLADIMIRO MONTESINOS FOR ILLEGAL ENRICHMENT OPENED AT MONTESINOS' REQUEST BY HER PREDECESSOR (REFTEL). UNEXPECTEDLY, AND IN A FINAL ACT THAT SACRIFICED

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UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: DONALD A. JOHNSTON  
DATE/CASE ID: 28 SEP 2001 200004441

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HIS LAST MEASURE OF SELF-RESPECT, ALJOVIN HIMSELF CLOSED THE CASE ON THE LAST DAY OF HIS TENURE, GETTING NAMED TO A TENURED POSITION ON THE SUPREME COURT. COLAN'S APPOINTMENT AND THE HANDLING OF THE INVESTIGATION INTO MONTESINOS' FINANCES UNDERSCORE THE EXECUTIVE'S CONTINUED INFLUENCE OVER THE JUDICIARY. AT THE SAME TIME, HOWEVER, THE OPPOSITION MANAGED TO DRAW PUBLIC ATTENTION TO THE FUJIMORI GOVERNMENT'S GREATEST VULNERABILITY. END SUMMARY.

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COLAN ELECTED--WITH A LITTLE HELP FROM HER FRIENDS  
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3. (C) BY A 5-0 MARGIN, PERU'S COUNCIL OF SUPREME MAGISTRATES ELECTED CURRENT PRESIDENT OF THE EXECUTIVE COMMITTEE FOR THE PUBLIC MINISTRY, BLANCA NELIDA COLAN, TO [REDACTED]

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THE OFFICE OF ATTORNEY GENERAL. THE VOTES IN FAVOR CAME FROM THE FOUR PROVISIONAL OR NON-TENURED MAGISTRATES WHO HAD BEEN DESIGNATED TO THEIR POSITIONS ON THE COUNCIL DURING HER TENURE ON THE EXECUTIVE COMMITTEE. THREE OF THE FOUR PERMANENT MAGISTRATES ENTITLED TO CAST A VOTE HAD REQUESTED ANNUAL LEAVE TO COINCIDE WITH THE DAY OF THE ELECTION, REPORTEDLY BECAUSE THEY DID NOT WANT TO PARTICIPATE IN THE CONTROVERSIAL ELECTION. FOUR PROVISIONAL MAGISTRATES PLUS COLAN HERSELF CAST THE VOTES IN HER FAVOR; OUTGOING ATTORNEY GENERAL ALJOVIN CAST A BLANK VOTE.

4. (C) THIS IS THE THIRD TIME COLAN HOLDS THE POSITION OF ATTORNEY GENERAL AND THE SECOND TIME SHE DOES SO WHILE CONCURRENTLY HOLDING THE PRESIDENCY OF THE EXECUTIVE COMMITTEE FOR THE PUBLIC MINISTRY. HER LINKS TO INFLUENTIAL MEMBERS OF THE FUJIMORI GOVERNMENT DATE BACK TO 1987 WHEN, AS A CRIMINAL JUDGE, SHE HANDLED A CASE INVOLVING MONTESINOS, IN WHOSE FAVOR SHE RULED. IN 1992, COLAN WAS NAMED PROVISIONAL ATTORNEY GENERAL AND WAS CHARGED WITH THE REORGANIZATION OF THE PUBLIC MINISTRY. IN 1994, SHE WAS SWORN IN AS SUPREME MAGISTRATE AS WELL AS ATTORNEY GENERAL. IN JULY OF 1995, FUJIMORI'S CONGRESSIONAL MAJORITY EXTENDED HER TENURE IN THE POSITION OF ATTORNEY GENERAL UNTIL JANUARY 1997. IN JUNE OF 1996, SHE ASSUMED THE PRESIDENCY OF THE EXECUTIVE COMMISSION FOR THE PUBLIC MINISTRY WHICH, ALONG WITH THE EXECUTIVE COMMISSION FOR THE JUDICIARY, WAS EXPECTED TO CARRY OUT PERU'S LONG-PROMISED JUDICIAL REFORM.

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A CONTROVERSIAL FIGURE

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5. (C) COLAN HAS EARNED A REPUTATION FOR BEING A LOYAL SUPPORTER OF PRESIDENT FUJIMORI. UNDER HER LEADERSHIP, THE PUBLIC MINISTRY HAS PURSUED CASES AGAINST GOVERNMENT DETRACTORS SUCH AS BARUCH IVCHER AND LIMA MAYOR ALBERTO ANDRADE, DROPPED CHARGES AGAINST GOVERNMENT SUPPORTERS SUCH AS MONTESINOS AND THE FORMER MINISTER OF THE PRESIDENCY GONZALEZ REATEGUI, AND TRANSFERRED CONTROVERSIAL CASES TO PRO-GOVERNMENT MAGISTRATES (MOST RECENTLY IN THE INVESTIGATION AGAINST THE WOMAN WHO ALLEGEDLY DISCLOSED INFORMATION REGARDING MONTESINOS' BANK ACCOUNTS -- REFTTEL). COLAN'S CONTROVERSIAL PURCHASE OF EXPENSIVE REAL ESTATE AND HER DISMISSIVE ATTITUDE TOWARDS THE OPPOSITION DURING THE CONGRESSIONAL INQUIRY INTO THE MATTER FURTHER TARNISHED HER PUBLIC IMAGE. SHE IS CONSIDERED BY SOME OF THE LEADING MEMBERS OF THE LEGAL COMMUNITY TO BE A MEDIOCRE ATTORNEY, WHOSE PROFESSIONAL ATTRIBUTES ALONE WOULD NOT PERMIT HER ASCENT IN THE LEGAL RANKS. SHE HAS, HOWEVER, BEEN SUPPORTIVE OF USG TRAINING COURSES FOR COUNTER NARCOTICS PROSECUTORS.

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MONTESINOS LEGALLY CLEARED ON A TECHNICALITY  
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6. (C) BECAUSE OF HER DEMONSTRATED SUPPORT FOR THE GOVERNMENT (AS WELL AS HER PUBLIC DEFENSE OF MONTESINOS IN A

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ACTION WHA-01

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	PRM-01	DRL-02	G-00	NFAT-00	SAS-00	/012W	
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FM AMEMBASSY LIMA  
TO SECSTATE WASHDC PRIORITY 2549

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INFO AMEMBASSY SANTIAGO  
AMEMBASSY QUITO  
AMEMBASSY SAN JOSE  
AMEMBASSY LA PAZ  
USCINCSO MIAMI FL

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E.O. 12958: DECL: 01/25/10  
TAGS: PGOV, PHUM, PREL, KFIN, PINR, PE  
SUBJECT: AS NEW ATTORNEY GENERAL ASSUMES DUTIES, OUGOING

ATTORNEY GENERAL DISMISSES CASE AGAINST MONTESINOS

SIMILAR ACCUSATION AGAINST HIM IN 1997), COLAN WAS EXPECTED  
TO CLOSE THE PENDING INVESTIGATION OF PRESIDENTIAL ADVISOR  
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VLADIMIRO MONTESINOS. TO BE SURE, THE FORMER ATTORNEY  
GENERAL, MUCH OF WHOSE AUTHORITY HAD BEEN USURPED BY COLAN'S  
EXECUTIVE COMMISSION, WAS NEVER EXPECTED TO PURSUE CHARGES  
AGAINST MONTESINOS SUCCESSFULLY. CITING SOURCES CLOSE TO  
ALJOVIN, THE OPPOSITION PRESS REPORTED THAT THE FORMER  
ATTORNEY GENERAL BASED HIS INVESTIGATION INTO MONTESINOS'  
FINANCES ON ILLEGAL ENRICHMENT INSTEAD OF MONEY LAUNDERING  
BECAUSE OF PRACTICAL, POLITICAL CONSIDERATIONS AND THE FACT  
THAT THERE WAS SCANT IF ANY EVIDENCE OF ILLEGAL ENRICHMENT.

7. (C) NOTWITHSTANDING THEIR LACK OF REGARD FOR ALJOVIN  
DURING HIS TENURE AS ATTORNEY GENERAL (NOTE: WHO HAD  
GENERALLY BEEN REGARDED AS DECENT BUT WEAK AND INEFFECTIVE),  
THE OPPOSITION PRESS WAS SHOCKED TO LEARN THAT HIS LAST ACT  
IN OFFICE HAD BEEN TO CLOSE THE MONTESINOS INVESTIGATION.  
THE LEAST HE COULD HAVE DONE, THE PRESS AND OPPOSITION  
ARGUED, WAS TO LEAVE A HOT POTATO FOR COLAN. ALJOVIN, WHO  
HAS SINCE BEEN NAMED TO A TENURED POSITION ON THE SUPREME  
COURT, BASED HIS DISMISSAL OF THE CHARGES ON A TECHNICALITY.  
HE SAID THE DOCUMENTS ORIGINALLY PRESENTED BY APRA  
CONGRESSMAN DEL CASTILLO THAT LED TO THE INVESTIGATION OF  
MONTESINOS' FINANCES HAD BEEN OBTAINED ILLEGALLY (IN BREACH  
OF THE BANKING CONFIDENTIALITY LAW) AND COULD THEREFORE NOT  
SERVE AS EVIDENCE. THOUGH LEGAL EXPERTS MAY, AND DO,  
DISPUTE THE FACTUAL AND LEGAL GROUNDS FOR HIS CONCLUSIONS,  
ALJOVIN'S DECISION CANNOT BE APPEALED. THE CASE IS CLOSED  
AND THERE IS UNLIKELY TO BE FURTHER (OR, AT LEAST, SERIOUS)  
INVESTIGATION INTO THE FINANCES OF THE CONTROVERSIAL  
MONTESINOS ON THIS OR RELATED CHARGES, ACCORDING TO THE NEW  
ATTORNEY GENERAL. PRESIDENT FUJIMORI HIMSELF COMMENTED THAT

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ALJOVIN'S RULING WAS THE CORRECT ONE AND THAT HE HAD  
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CONFIDENCE IN MONTESINOS ALL ALONG.

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COMMENT  
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8. (C) COLAN'S RE-ELECTION TO THE OFFICE OF ATTORNEY GENERAL AND THE HANDLING OF THE CASE AGAINST MONTESINOS UNDERSCORE SERIOUS FLAWS IN PERU'S JUDICIAL SYSTEM. EVER SINCE ITS FUNCTIONS WERE TRANSFERRED TO THE EXECUTIVE COMMISSION OF THE PUBLIC MINISTRY (I.E., BLANCA NELIDA COLAN), THE POWERS OF THE ATTORNEY GENERAL HAD BEEN CONSIDERED LARGELY VESTIGIAL. IN THAT SENSE, COLAN'S RE-ELECTION AS ATTORNEY GENERAL SIMPLY FORMALIZES HER CONTROL OVER THE PROSECUTORIAL BRANCH OF THE JUDICIARY. YET IT QUITE OPENLY HIGHLIGHTS THE CENTRALIZED NATURE OF THE CONTROL OF THE JUDICIARY IN PERU. MEANWHILE, THE STRICTLY TECHNICAL REASONING USED BY THE FORMER ATTORNEY GENERAL TO PROMPTLY DISMISS CHARGES AGAINST MONTESINOS, THOUGH PERHAPS LEGALLY DEFENSIBLE, FAILED TO ADDRESS THE FUNDAMENTAL QUESTION OF THE SOURCE OF THE LARGE QUANTITIES OF MONEY ALLEGEDLY FOUND IN A PUBLIC SERVANT'S ACCOUNT. THE HANDLING OF THE CASE THEREBY PERPETUATES THE PERCEPTION THAT PERU'S JUDICIAL SYSTEM IS HEAVILY INFLUENCED BY THE EXECUTIVE BRANCH AND THAT MONTESINOS IS ABOVE THE LAW. AT THE SAME TIME, HOWEVER, THE OPPOSITION MANAGED IN ONE EPISODE TO DRAW PUBLIC ATTENTION TO THE FUJIMORI GOVERNMENT'S GREATEST VULNERABILITIES--POSSIBLE CORRUPTION INVOLVING MONTESINOS AND THE SYSTEM'S UNABASHED COVERING FOR HIM.

HAMILTON  
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